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1. Whoever hopes that any system of Expropriation will be devised easy of execution and perfectly without hardship, is doomed to disappointment. Expropriation for public uses is by its nature arbitrary, a sacrifice of the individual for the general benefit. All then that any Expropriation Law can do, is to determine and restrain within the narrowest limits, the cases in which Expropriation may be resorted to, and to insure to the person Expropriated an ample indemnity for all he loses. When the State Expropriates, it is very difficult, nay it is almost impossible, to define precisely the cases in which Expropriation may take place; but this difficulty ceases when the State cedes the right to a Corporation with finite objects—as for instance, when the right to Expropriate is delegated to a Municipal Corporation like that of the City of Montreal. Then it is easy to enumerate the cases in which Expropriation may be exercised, and this is the first point which should be made clear in consolidating the legislation with regard to Expropriations for City purposes.

2. Much time has been wasted in considering the question of Expropriation for municipal pur-

poses as conferring advantages which are either local *or* general, or both local *and* general. In so far as regards expropriations, for the opening or widening of streets, there are really none which do not possess both characters,—that is, they confer advantages which are both local, or more properly speaking special and general. This being established, two systems of contribution suggest themselves,—first, that the Corporation, which expropriates, shall pay the cost of expropriation ; second, that those who make a special and appreciative gain, should contribute, with the Corporation, towards the payment of the cost of the expropriation. Much may undoubtedly be said for and against both of these systems.

3. It is manifest that the present system, which in practice, charges the whole cost of an expropriation on the proprietors in the immediate neighbourhood of the improvement, making no allowance for the general advantage gained, is unjust—as unjust in principle as it would be to take the property required for expropriation without giving any indemnity at all. On the other hand there are objections, though of a somewhat different character, to throwing the whole indemnity on the shoulders of the Corporation. To some extent it is hardly fair to allow the proprietors, obviously and specially advantaged, thus

to enrich themselves out of all measure ; but in addition to this, if such a bait were held out to speculators, it would be extremely difficult, without very cumbrous machinery indeed, to prevent jobbing of the most serious kind.

4. Under these circumstances, your Committee recommend that the present system should be modified, so as to make the Corporation responsible as a contributory in every expropriation of the kind in question,—the sum for which it contributes being established precisely in the same way as the special contribution of each of the individual contributors, provided that the share of the City shall in no case exceed one half of the indemnity.

5. Your Committee, having arrived at this conclusion, next turned their attention to the mode of establishing, (1,) the indemnity to be paid to the expropriated, (2,) the distribution among the contributors. And here again they have thought it wise to change the present law as little as possible. They, therefore, recommend that for each petition Commissioners should be named by the Superior Court, sitting as a full Bench as in Review. And the Court should have power, sitting as a full Bench as aforesaid, to displace any or all of them for misconduct in office, and to name others to fill their place.

6. The said Commissioners to be paid \$——— each per diem, and all necessary expenses in and about any expropriation, and to be authorized to tax witnesses' bills, &c.

7. No person to be appointed such Commissioner who is not possessed, as proprietor, of property, situate in the City of Montreal, of the value of \$16,000 over and above all debts.

8. The initiation of all expropriations should be with the City Council, and in the event of any such being determined on, a plan of the ground and of the proposed alteration should be made, and the Council should then order its reference to the Commissioners, whose duty it would be to prepare a scheme of taxation, showing the cost of the improvement and the distribution of the special tax on the Corporation and on the proprietors specially advantaged. This scheme should be then advertised in some sufficient manner, in order that the persons taxed may oppose the alteration or the details of the taxation, which the said Commissioners should have power to amend, and then the report of the Commissioners should be sent in to the Court for homologation, and should, by the Court, be homologated, unless the proprietors, paying more than one-half of the amount assessed, should

object, in which case the expropriation should be abandoned.

9. The expenses of the Commissioners should be defrayed by the Corporation in all cases ; save that each party should be held to pay the costs of the witnesses called by him.

10. As to the property expropriated, the Commissioners should have the power to declare when the expropriation amounts to a total or only to a partial expropriation ; but the Corporation should in no case be allowed to take more land than is absolutely required for the improvement without the consent of the proprietor.

11. There should also be provisions of law for the cases of substitution and for properties hypothecated. In any case of substituted property the owner should have the power of obliging the Corporation to take it off his hands at a valuation in the same way as he might do if a useless remnant of his land was left ; and in such case the Corporation should only be compelled to pay him an annual indemnity for the property substituted equal to the net revenue of his property, and to the heirs of entail (*appelés*), after the decease of the proprietor, the capital sum at which the property was estimated. But the heirs of entail (*appelés*) should have the right of assuming the position of the Corporation, in so far

as regards the retention of the property not required for the contemplated improvement. In cases of hypothec the owner should have the power of creating a privileged hypothec for the amount he had to pay for his share of the contribution bearing interest at not more than 7 per cent. yearly.

12. The law should likewise provide some general rules of valuation for the guidance of the Commissioners, and which past experience will doubtless readily dictate.

13. The City Treasurer should be declared to be an officer of the Superior Court for the purposes of receiving the amount of contribution of each contributor, and of paying to each person to be indemnified the amount of his indemnity, less his contribution, if any he has to pay. And the Court should be empowered to proceed against the said City Treasurer by *contrainte par corps* for failing or refusing to pay any sum of money ordered to be distributed under this Act, and which he shall have received, as in similar cases such Court would have against the Prothonotary for refusing to perform any duty or office imposed by law.

14. The law should further provide for the distribution of any money to be paid to any proprietor expropriated, subject to opposition in

like manner as in the distribution of other monies out of Court.

15. The law should also provide that the whole sum payable towards any expropriation by the Corporation should be levied, at the next period of general assessment, by a special tax, so that the indebtedness of the City shall not be permanently increased for the purposes of improvements of the description for which expropriations usually take place.

Citizens' Association, 12 January, 1869.

(Signed,)

H. STEPHENS, *President.*

T. K. RAMSAY, *Hon. Secy.*

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